IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

BRIAN M. PURICELLI et al.	:	CIVIL ACTION
	:	
v.	:	
	:	
FEATHER HOUSTON et al.	:	99-2982

MEMORANDUM AND ORDER

J. M. KELLY, J. **MARCH 14, 2000**

Presently before the Court is a Motion to Compel Discovery filed by the Plaintiffs, Brian Puricelli, Rhonda Ledbetter and her children, Daniel Borochaner and Rebecca Borochaner (collectively referred to as the "Plaintiffs"). The Defendants, the Commonwealth of Pennsylvania, the Children and Youth Services Agency of Bucks County ("Children and Youth Services") and various individuals employed thereby (collectively referred to as the "Defendants"), have responded with a Motion for a Protective Order as well as their own Motion to Compel Discovery. For the following reasons, the Plaintiffs' Motion to Compel will be granted in part and denied in part, as will both of the Defendants' motions.

I. BACKGROUND

This case arises out of a report of child abuse and subsequent investigation by Children and Youth Services. The Plaintiffs brought suit pursuant to 42 U.S.C. § 1983 (1994), alleging the Defendants violated their constitutional rights through their conduct in investigating the reported abuse.[1] Specifically, the Plaintiffs claim that the Defendants caused the wrongful separation of Ledbetter and her children from Puricelli, that they interfered with their parental

[1] The Plaintiffs also sued Feather Houston in her official capacity as Secretary of the Pennsylvania Department of Public Welfare. By an Order dated October 20, 1999, the Complaint was dismissed as to Defendant Houston. See Puricelli v. Houston, No. CIV. A. 99-2982, 1999 WL 959547, at *1 (E.D. Pa. Oct. 20, 1999).

rights by, among other things, removing Daniel from his mothers custody and questioning the children without the knowledge or consent of Ledbetter or Puricelli, and that the investigation was prolonged unnecessarily. The Plaintiffs also allege in their Complaint that although Children and Youth Services determined the allegation of abuse to be "unfounded," Puricelli was nonetheless placed on the Statewide Central Register of known child abusers. They filed suit in this Court seeking relief for the deprivations of their federal rights by the Defendants.

In the process of discovery, the Plaintiffs served a Request for the Production of Documents as well as Interrogatories on Defendants' counsel. The untimely response of the Defendants, however, was deemed lacking by the Plaintiffs, and they filed the instant motion to compel. In response, the Defendants filed a motion for a protective order alleging the documents sought by the Plaintiffs were either privileged, irrelevant or not reasonably calculated to lead to the discovery of admissible evidence. They also filed a motion to compel certain documents they allege the Plaintiffs have thus far refused to turn over.

II. LEGAL STANDARD

In civil matters, the scope of discovery is governed by Federal Rule of Civil Procedure 26. See Fed. R. Civ. P. 26. Pursuant to Rule 26, the parties may obtain discovery "regarding any matter, not privileged, which is relevant to the subject matter involved in the pending action." Id. (b)(1). Relevancy is not limited to matters of admissible evidence, but rather it includes information "reasonably calculated to lead to the discovery of admissible evidence." Id. Further, relevancy is to be broadly construed; it is not limited to the precise issues set forth in the complaint or to the merits of the case. See Oppenheimer Fund, Inc. v. Sanders, 437 U.S. 340, 351 (1978); Davis v. General Accident Ins. Co., No. CIV. A. 98-4736, 1999 WL

228944, at *2 (E.D. Pa. Apr. 15, 1999).

III. DISCUSSION

A. Plaintiffs' Motion to Compel and Defendants' Motion for a Protective Order

The Plaintiffs argue that the Defendants have failed to produce certain documents in response to their request and additionally that they have failed to adequately respond to one of their interrogatories. The Defendants allege that the documents requested are variously nonexistent, privileged, irrelevant or not reasonably calculated to lead to the discovery of admissible evidence. The Court will address each group of disputed documents in turn.

1. Investigation File of Children and Youth Services

In their request for production of documents, the Plaintiffs seek to discover the entire investigation file of Children and Youth Services, as well as all records and reports obtained in the process of the abuse investigation that pertain to them.[2] The Defendants refused to comply,

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[2] Specifically, the Plaintiffs request:

> 11. All medical or psychological records, reports, tests, evaluations [sic] records obtained by the Defendants in investigating the child abuse complaint which is the subject matter of this suit and/or mentioning or concerning Brian M. Puricelli, Daniel Borochaner, Rebecca Borochaner and/or Rhonda Ledbetter.

Plaintiffs' Request for Production of Documents ¶ 11. Additionally, the requests made in Paragraphs 1 and 2 seem to cover elements of the investigation file. They state:

> 1. The written or recorded information that was relied upon and/or will be relied upon for each denial and/or defense raised in the Answer to the Complaint.
> 2. The written or recorded information relied upon to identify a person as either potential witness, witness or person who may potentially have information on the subject matter or defense in this case.

claiming such information was protected pursuant to the Pennsylvania Child Protective Services Law, ("CPSL"), 23 Pa. Cons. Stat. Ann. §§ 6301-6384 (West 1991). Specifically, the Defendants point to § 6339, relating to the confidentiality of reports of abuse, which provides:

> Except as otherwise provided in this subchapter, reports made pursuant to this chapter, including, but not limited to, report summaries of child abuse and written reports made pursuant to section 6313(b) and (c) (relating to reporting procedure) as well as any other information obtained, reports written or photographs or X-rays taken concerning alleged instances of child abuse in the possession of the department, a county children and youth social service agency or a child protective service shall be confidential.

23 Pa. Cons. Stat. Ann. § 6339. Permitted, however, is the release of certain information to the subject of a report. See id. § 6340(b). The Defendants argue that the CPSL prohibits the disclosure of "essentially all written documentation and information in Children and Youth Services' files which relates to their investigation of alleged abuse." Defendants' Motion for a Protective Order, at 5-6. This prohibition, they argue, creates a privilege against civil discovery that applies notwithstanding the fact that this is a federal question case.

So as not to unnecessarily interpret Pennsylvania statutory law, the Court will assume without deciding that the CPSL creates the broad privilege the Defendants allege. Even so, such a privilege does not automatically apply in a federal question case in federal court. Evidentiary privileges in federal court are analyzed pursuant to Federal Rule of Evidence 501.[3] Specifically, Rule 501 provides that except as otherwise required by federal law, "the privilege of a witness, person, government, State, or political subdivision thereof shall be governed by" federal common

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Plaintiffs' Motion for Production of Documents ¶¶ 21-22.

[3] In their briefs, the parties seem to have omitted reference to Rule 501 and its corresponding analysis. The Court, finding Rule 501 to be directly on point, will apply it nonetheless.

law. Fed. R. Evid. 501. In civil actions where state law governs, however, the law of privilege "shall be determined in accordance with State law." Id. The instant case was filed pursuant to 42 U.S.C. § 1983 alleging violations of federal constitutionally guaranteed rights. Therefore, federal law supplies the rule of decision over the Plaintiffs' claims, as it does the law of privilege. See, e.g., Andritz Sprout-Bauer, Inc. v. Beazer East, Inc., 174 F.R.D. 609, 632 (M.D. Pa. 1997); Curtis v. McHenry, 172 F.R.D. 162, 164 (W.D. Pa. 1997); Sarko v. Penn-Del Directory Co., 170 F.R.D. 127, 129 (E.D. Pa. 1997).

Recently, in Jaffee v. Redmond, 518 U.S. 1 (1996), the United States Supreme Court interpreted Rule 501, addressing the extent to which federal courts should apply state-created privileges in federal question cases. See id. at 7;Curtis , 172 F.R.D. at 164. In determining whether to recognize a state's patient-psychotherapist privilege as a matter of federal law, the Court looked to the law of the fifty states. See Jaffee, 518 U.S. at 10-16. Finding that all fifty states had codified the privilege in some form, the Court held that it could be fairly characterized as a "principle of common law . . . in the light of reason and experience." Fed. R. Evid. 501; Jaffee, 518 U.S. at 17-18; Curtis, 172 F.R.D. at 164.

Applying this analysis to the instant case, the Court is neither compelled nor inclined to recognize a privilege against the discovery of an abuse investigation file when sought by the subject of the file for the purpose of proving his § 1983 claim. First, an examination of comparable statutes from other states reveals that none of these statutes expressly create the claimed privilege. Further, the Defendants have not cited to any cases interpreting any statutes, including the CPSL, as creating such a privilege.[4] Further, on the whole, the stated purpose for

[4] Indeed, the Defendants fail to cite to any such statute, outside of the CPSL.

confidentiality provisions is to protect the privacy rights of the child, an interest not furthered when it is the child and his parents who seek the information. Finally, as the Curtis court noted, "reason and experience" counsel the Court to deny such a privilege because "if state statutory privileges were automatically entitled to recognition under [Rule 501], a state could completely frustrate the ability to prove § 1983 claims . . . by simply passing a statute that privileged all information relating to any" child abuse investigation activity. Curtis, 172 F.R.D. at 164 n.2. The Court therefore finds that the claimed privilege is not entitled to recognition in this case and the Plaintiffs' motion to compel their entire Children and Youth Services investigation file is granted. The Court notes, however, that its holding is limited to the particular facts of the instant case. The Court holds merely that the file generated in the course of an abuse investigation, when sought by the subject of the investigation pursuant to his § 1983 action against the investigating agency, is not privileged under Rule 501. Additionally, in the interests of protecting the identity of the accuser, all notations identifying such shall be redacted from all materials prior to disclosure.

2. Personnel Files of Individual Defendants

The Plaintiffs also seek discovery of the personnel files of the individual defendants.[5] In

[5] The Plaintiffs' document production request states, in relevant part:

> 4. All discipline, promotion, hiring, training and post primary educational records/certificates and/or diplomas (including computer files maintained by the agencies) of the individual defendants.
>
> . . .
>
> 21. Any and all computer records, written reports, or magnetically recorded recordings concerning investigations or complaints made against any defendant, or concerning training, promotions or employment terms and conditions for the positions

their response to Plaintiffs' request for documents, the Defendants objected claiming the request was, among others, unduly burdensome, overly broad, intended to harass the defendants and not reasonably calculated to lead to the discovery of admissible evidence. In their motion for a protective order, they argue alternatively that such documents either do not exist or are irrelevant to the cause of action.

Based on the Defendants' varying and inconsistent responses, it is unclear to the Court whether and to what extent such documents exist. Nonetheless, the Court finds that the personnel records, as they pertain to the Plaintiffs' cause of action, are discoverable. The theory of the Plaintiffs' case seems to be the use of improper investigative practices leading to the unconstitutional application of the CPSL. The personnel records, they claim, are sought to determine whether similar complaints have previously been filed against the individual defendants, as well as to determine whether Bucks County and Children and Youth Services had notice of such. The Court agrees that these records, duly limited as set forth below, are reasonably calculated to lead to the discovery of admissible evidence.

Therefore, the Defendants shall produce any and all records relating to the discipline, promotion, hiring, training, education, and investigation of complaints made against the individual defendants. To the extent that these document do not exist, as at one point the Defendants claim, they need only say so; if they do exist, then they are discoverable. The Defendants are not required, however, to produce personnel information pertaining to benefits,

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they have held as investigator, supervisor, or social worker.

22. All training and discipline records of the defendants.

Plaintiffs' Request for Production of Documents ¶¶ 4-22.

insurance, taxes or immigration and naturalization. The Court finds such documents to be irrelevant to the Plaintiffs' cause of action.

3. Policies and Procedures Used in Investigating Reports of Child Abuse

The Plaintiffs have additionally requested production of the policies and procedures used by the Defendants in investigating child abuse cases. See Plaintiffs' Request for Production of Documents ¶¶ 7, 8, 9[sic], 12. The Defendants again respond inconsistently, stating in their response that no such records exist and in their motion that the documents are matters of public record.

The Court finds that such records are discoverable. The policies and procedures to which abuse investigations are supposed to adhere are relevant to the Plaintiffs' claims that the defendants conducted their investigation improperly. As above, then, if indeed such documents do not exist, they are not discoverable. To the extent that such documents do exist, however, the Defendants are ordered to produce them to the Plaintiffs. This is the case even if the documents are a matter of public record; the fact that a piece of evidence is equally obtainable by both parties does not relieve a party's obligation to make it available in discovery. Therefore, the Defendants shall produce any and all policies and procedures governing the investigation of reports of child abuse.

4. Bucks County Financial and Policy Records Relating to Children and Youth Services

The Plaintiffs additionally request financial and policy records relating to Children and Youth Services. Specifically, their request states:

> All records, statistical information, minutes or writing, recording [sic] of meetings or reports, made created or filled out by the Defendants and which concern complaints of, investigations and discussions of meetings involving a duty under the Child Protective law, regulation under such Law or for the purpose of fulfilling some duty in the area of child abuse.

Plaintiffs' Request for Production of Documents ¶ 9. It is not clear to the Court the scope of the Plaintiffs' request, nor is it clear exactly what documents they seek. In their motion they allege these documents are public records. The vagueness and potential breadth of the request, however, make it impossible for the Court to so determine. Accordingly, the Court will hold a hearing to determine what documents the Plaintiffs actually seek. Such hearing will be held on Monday, March 27, 2000 at 10:00 a.m. in Courtroom 8A, United States Courthouse, 601 Market Street, Philadelphia, PA 19106.

5. Records Pertaining to Other Abuse Investigations

The Plaintiffs have also sought discovery of records pertaining to other abuse investigations conducted by Children and Youth Services.[6] They contend that such information

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[6] The Plaintiffs seek:

> 10. All records, documents, evidence, transcripts and statistical information on lengths of investigations from time of child abuse complaint to determination that the complaint was unfounded, indicated or founded.
>
> . . .
>
> 19. All computer entries, writing, notes, records, report, minutes, statistical information, concern [sic] race, sex or disability

is relevant to examining the issue of equal protection, specifically whether the Plaintiffs were treated differently than other families during the course of the investigation. The Defendants object to the production of these documents on the grounds that they are irrelevant to the Plaintiffs' cause of action.

The Court agrees. First, without even taking into account the enormous privacy concerns raised by the possibility of disclosing information pertaining to other abuse investigations, the manner in which other investigations were conducted and their duration has no relevance to the Plaintiffs' claims. The policies and procedures governing abuse investigations are relevant to determining whether the investigation of the Plaintiffs was substandard, not the manner in which other investigations were conducted. Further, the individualized circumstances of each case make it unlikely that any such information would be useful. Finally, compliance with such broad requests for information would be unduly burdensome in light of the scope of the request, the privacy concerns and lack of relevance of the information. Therefore, the motion to compel is denied as to this issue, and the motion for a protective order is granted.

6. <u>Documents Relied Upon by Defendants in Answering the Complaint and at Depositions</u>

The Plaintiffs also demand production of all documents relied upon by the Defendants in denying their Complaint, as well as all documents used, or intended to be used, at deposition, hearing, trial or summary judgment motion. The Defendants objected to the former request,

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> discrimination (whether founded or not) which were or are obtained, maintained, created or prepared by the Affirmative Action (Equal Employment) Office, officer or aid for such.

Plaintiffs' Request for Production of Documents ¶¶ 10-19.

asserting the documents sought were protected by privilege as set forth in the CPSL. As discussed previously, however, the Court finds that such a privilege does not apply in the instant case. Therefore, the Defendants shall produce any and all documents they relied on in answering the Plaintiffs' Complaint.

Regarding the Plaintiffs' latter request, the Defendants responded initially that in addition to being protected by the attorney-client privilege or the work product doctrine, they had not yet determined which documents would be so used. Since that time, however, the Defendants have deposed at least one person, Brian Puricelli. At his deposition, the Plaintiffs allege, the Defendants relied on two exhibits which, to the Court's knowledge, have not yet been produced to the Plaintiffs.[7] Federal Rule of Civil Procedure 26(e) creates a duty on the parties to supplement their discovery responses. See Fed. R. Civ. P. 26(e). Additionally, when a party withholds otherwise discoverable information pursuant to a privilege, "the party shall make the claim expressly and shall describe the nature of the documents, communications, or things not produced or disclosed in a manner that . . . will enable other parties to assess the applicability of the privilege or protection." Fed. R. Civ. P. 26(b)(5). Given that the Defendants said they did not know which documents they planned on using, they clearly have not met the standard of Rule 26(b)(5) for asserting privilege. As such, the Defendants shall produce any and all documents relied upon in depositions previously conducted. Further, unless and until they comply with Rule 26(b)(5), the Defendants shall produce all other documents intended to be used at deposition,

[7] Incidentally, the Plaintiffs claim these two exhibits were copies of the CPSL and accompanying regulations setting forth the policies and procedures governing abuse investigations, a previous subject of this Memorandum and one whose existence at one point the Defendants denied.

hearing, trial or summary judgment motion.

7. Plaintiffs' Interrogatory Number Three

Lastly, the Plaintiffs move the Court to compel the Defendants to respond to their third interrogatory. In the interrogatory, the Plaintiffs ask:

> In replying to the complaint, did you deny any of the paragraphs of the Complaint? If yes, for each denial, and by the paragraph number, provided [sic]:
>
> a - the name and address of the person(s) whom was relied upon to deny the paragraph.
>
> b - provide in detail the facts, information, or anticipated testimony of the person(s) which caused you to believe a denial could be made to the paragraph.
>
> c - if a document was used or relied upon for the denial, provide a copy of the document(s) and identify the paragraph number to each document and state how the document relates to the denial.
>
> d - if an other [sic] thing than a person or document was relied upon for the denial, describe such thing, the address where such thing can be found and who's possession and/or control such thing is in.

Plaintiffs' Interrogatories Directed To Defendants, at 1-2. The Defendants responded to this interrogatory, in whole, by saying:

> Answering Defendants object to this interrogatory to the extent that it is unduly burdensome, overly broad, vague, vexatious, intended to harass and not reasonably calculated to lead to discoverable evidence. Interrogatory number 3 also calls for information protected by the attorney client privilege and work product doctrine. Without waiving the foregoing, yes.

Defendants' Answer to Plaintiffs' Interrogatories, at 1.

In a number of respects, the Defendants' response is wholly unacceptable. First, as the Plaintiffs correctly point out, the Defendants must either have evidence to warrant their denials to allegations made in the Complaint or specifically state that such is reasonably based on a lack of information or belief. See Fed. R. Civ. P. 11(b). Assuming that the Defendants have such information, therefore, it hardly seems unduly burdensome for them to compile it in response to

the Plaintiffs' interrogatory. Second, given that such information relates directly to the Defendants' position on the case, their contention that it is not reasonably calculated to lead to discoverable evidence is nonsensical. Third and finally, as discussed above, when a party withholds otherwise discoverable information pursuant to a privilege, it is required to expressly describe the disputed document and the nature of the asserted privilege so that the applicability of the privilege can be determined. See Fed. R. Civ. P. 26(b)(5). The Defendants' response consists of nothing more than a general averment of privilege that allegedly applies to unidentified and unspecified documents. This clearly falls below the standard set forth in Rule 26. Accordingly, the Court orders the Defendants to fully and completely answer interrogatory number three. Unless and until the Defendants comply with the mandates of Rule 26(b)(3), this includes producing any and all documents relied upon for each denial of the allegations in the Plaintiffs' Complaint.

B. Defendants' Motion to Compel

In their own motion to compel, the Defendants allege the Plaintiffs have failed to produce certain documents of their own. Additionally, they seek to obtain the depositions of two witnesses for the Plaintiffs.

1. Copies of the "Recognized Standards" for Training Child Abuse Investigators

The Defendants allege that the Plaintiffs have failed to produce copies of the "recognized standards" for training child abuse investigators, documents they claim the Plaintiffs

affirmatively plead in their Complaint.[8] The Plaintiffs allege that these standards are the same policies and procedures that they seek from the Defendants and that they said could be found in the CPSL and accompanying regulations.

It is patently unclear to the Court what the Defendants are requesting and whether these are the same documents that comprise part of the Plaintiffs' motion to compel. Nonetheless, to the extent that the Plaintiffs have any "recognized standards" governing the training of child abuse investigators, these documents are relevant and shall be produced. They are reasonably calculated to lead to the discovery of admissible evidence, namely the standard to which the individual defendants were supposed to adhere. The Plaintiffs are not required, however, to produce information acquired by Puricelli in the course of his own law practice, unless he puts such matters into issue in the present litigation.

2. Medical and Counseling Records of Plaintiffs' Treating Counselors and Physicians

The Defendants also seek discovery of all medical and counseling records from the various physicians, psychologists, counselors and other professionals with whom the Plaintiffs have consulted as a result of the Defendants' alleged conduct. In their Complaint, the Plaintiffs put their psychological and medical condition into issue by pleading physical and emotional injury caused by the Defendants. Therefore, the requested records are relevant to the Plaintiffs' cause of action and are discoverable. The Plaintiffs are ordered to produce these records.

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[8] Relying on the Plaintiffs' statement that "these Defendants failed to properly train, supervise, and investigate child abuse cases under recognized standards," the Defendants claim the existence of "recognized standards" was acknowledged by and in the possession of the Plaintiffs. Plaintiffs' Complaint ¶ 20.

3. Depositions of Plaintiffs' Witnesses

The Defendants next move the Court to compel the Plaintiffs to produce Ledbetter's mother and brother for deposition. The Plaintiffs claim, however, and the Defendants do not dispute, that they have not served either of these witness with subpoenas. There is no duty on the part of nonparty witnesses to appear for a deposition absent a subpoena compelling their attendance. Given that the Defendants have Rule 45 at their disposal, their motion is denied as to this issue.

4. Copies of Custody Orders Regarding Daniel and Rebecca Borochaner

The Defendants also seek copies of the custody orders under which the Ledbetter claimed at her deposition that she and Puricelli had principle custody of the children during the time the investigation was being conducted. Clearly documents relating to custody are relevant to the Defendants' claim that they did not violate the Plaintiffs' rights in conducting their investigation. As such, they are discoverable and the Defendants' motion is granted as to this issue.

5. Copies of Documents Listed by Plaintiffs in Self-Executing Disclosure

The Defendants allege next that they never received copies of the documents listed by the Plaintiffs in their self-executing disclosure. The Plaintiffs counter that they disclosed such documents on August 14, 1999.

Federal Rule of Civil Procedure places a duty on the parties to make certain initial disclosures. See Fed. R. Civ. P. 26(a). If indeed the Plaintiffs have produced the promised documents, then they have satisfied their duty under this rule. To the extent, however, that they have yet to make production of the listed documents, they are hereby ordered to do so.

6. Communications Between Ledbetter and Puricelli

Lastly, the Defendants request the opportunity to redepose plaintiffs Puricelli and Ledbetter regarding conversations they had about the instant case. At their depositions and in their response, the Plaintiffs claim such information is protected pursuant to a spousal or marital communications privilege.

The Court notes initially that there is a difference between the spousal privilege and the marital communications privilege. The spousal privilege, as the Defendants correctly point out, protects an individual from being compelled to offer adverse testimony against his or her spouse. See Trammel v. United States, 445 U.S. 40, 53 (1980); United States v. Ammar, 714 F.2d 238, 258 (3d Cir. 1983). There is some question as to whether this privilege applies in the context of civil litigation. Nonetheless, it is clearly inapplicable here as Puricelli and Ledbetter are not adverse.

The marital communications privilege, however, bars testimony concerning statements privately communicated between spouses. See Caplan v. Fellheimer Eichen Braverman & Kaskey, 162 F.R.D. 490, 491 (E.D. Pa. 1995). In order to invoke the privilege, the testifying spouse must show first, that "answering the question would require her to disclose 'words or acts intended as communication from the other spouse,'" and second, that the communication was made during a valid marriage. Caplan, 162 F.R.D. at 491 (quoting United States v. Marashi, 913 F.2d 724, 729 (9th Cir. 1990)). Once these elements are established, confidentiality is presumed and the opposing party must overcome the presumption. See id.

The Plaintiffs in the instant case are asserting the marital communications privilege. The Defendants, however, dispute the existence of a valid marriage between Puricelli and Ledbetter

at the time the communications were made. As such, the Court will hold an evidentiary hearing on this matter. Such will be held in Courtroom 8A, United States Courthouse, 601 Market Street, Philadelphia, PA 19106, on Monday, March 27, 2000 at 10:00 a.m.

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O R D E R

AND NOW, this day of March, 2000, in consideration of the Motion to Compel filed by the Plaintiffs' Brian Puricelli, Rhonda Ledbetter and her children, Daniel Borochaner and Rebecca Borochaner (collectively referred to as the "Plaintiffs") (Doc. No. 13), the response of the Defendants, the Commonwealth of Pennsylvania, the Children and Youth Services Agency of Bucks County ("Children and Youth Services") and various individuals employed thereby (collectively referred to as the "Defendants") in the form of a Motion for a Protective Order (Doc. No. 15), the Defendants' Motion to Compel (Doc. No. 16) and the Plaintiffs' response thereto, it is ORDERED:

(1) The Plaintiffs' Motion to Compel (Doc. No. 13) is GRANTED IN PART and Defendants' Motion for a Protective Order (Doc. No. 15) is DENIED IN PART. Subject to the penalty of sanctions, the Defendants shall produce the following documents to the Plaintiffs on or before March 22, 2000:

(A) The entire Children and Youth Services investigation file, as well as all records and reports, created or obtained during Children and Youth Services' investigation of the Plaintiffs, provided names and identifying characteristics of the accuser or accusers are redacted;

(B) The personnel files of each individual defendant including all records

relating to discipline, hiring, training, education and investigation of complaints made against the individual defendants;

(C) Any and all policies and procedures used by the Defendants in investigating reports of child abuse.

(D) Any and all documents relied upon by the Defendants in answering the Plaintiffs' Complaint and used or intended to be used at deposition, hearing, trial or summary judgment, subject to the Defendants' proper assertion of privilege.

(E) A full and complete answer to Plaintiffs' interrogatory number three.

(2) The Defendants' Motion for a Protective Order (Doc. No. 15) is GRANTED IN PART and the Plaintiffs' Motion to Compel (Doc. No. 13) is DENIED IN PART. The Defendants are not required to produce the following documents to the Plaintiffs:

(A) Personnel information on the individual defendants pertaining to benefits, insurance, taxes or immigration and naturalization.

(B) Records pertaining to other abuse investigations conducted by Children and Youth Services.

(3) The Defendants' Motion to Compel (Doc. No. 16) is GRANTED IN PART AND DENIED IN PART. Subject to the penalty of sanctions, the Plaintiffs' shall produce the following documents to the Plaintiffs on or before March 22, 2000:

(A) Copies of "recognized standards" for training child abuse investigators that are in the possession of the Plaintiffs and not otherwise privileged.

(B) Medical and counseling records of the Plaintiffs' treating counselors and physicians.

(C) Copies of custody orders regarding Daniel and Rebecca Borochaner.

(D) Copies of documents listed by Plaintiffs in self-executing disclosures that have not previously been produced.

(4) A hearing will be held on Monday, March 27, 2000 at 10:00 a.m. in Courtroom 8A, United States Courthouse, 601 Market Street, Philadelphia, PA 19106 on the following issues:

(A) The Plaintiffs' request for Bucks County Children and Youth Services financial and policy records and their discoverability.

(B) Plaintiff Puricelli and Ledbetter's marital status at the time the Defendants conducted their abuse investigation, and the applicability of the marital communications privilege.

BY THE COURT:

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JAMES McGIRR KELLY, J.